

Notice of Allowability

Application No.

10/664,718

Examiner

Bernard E Souw

Applicant(s)

STAIB, PHILIPPE

Art Unit

2881

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 09/07/2004.
2. ☒ The allowed claim(s) is/are 1, 4, 5 and 7-19.
3. ☒ The drawings filed on 17 September 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In the claims:

In claim 1, line 2, after "generating", prior to "electron beam", delete **[an electron beam]** and insert -- **a high-energy collimated electron beam for diffraction applications** --.

Authorization for this Examiner's Amendment has been given during a phone conversation with the applicant's attorney, Mr. David M. Tener, Reg. No. 37,054, on September 24, 2004.

Applicant's Amendment

2. The Amendment filed 09/07/2004 has been entered. The present Office Action is made with all the arguments being fully considered.

Claims 2, 3 and 6 have been cancelled.

Claims 1, 4, 5, and 7-19 remain pending in this office action.

§ 112 Rejection Withdrawn

3. Claim 2 having been cancelled, the previous rejection under 35 U.S.C. §112, second paragraph, is now withdrawn.

ALLOWANCE

4. Claims 1, 4, 5, and 7-19 are allowed.

The claims are subsequently renumbered to claims 1-16.

Reasons for Allowance

5. The following is an examiner's statement of reasons for allowance:

An electron source generating a high energy collimated electron beam for diffraction purposes, further comprising a first beam deflector and a second beam deflector separated by a distance that is greater than the distance from the second deflector to the sample, both deflectors being enclosed in a casing having an exit aperture that simultaneously serves as a barrier for gases from the sample region upon entering the lower pressure region inside the casing, as recited in claim 1, is neither anticipated nor rendered obvious by any prior art.

Claims 4, 5, and 7-19 are also allowed because of their dependencies, either directly or indirectly, upon claim 1.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Relevant Prior Art(s)

7. These prior art references made of record and not relied upon are considered pertinent to applicant's disclosure:

► USPAT # 6,677,581, issued on 01/13/2004 to Koinuma et al., is found to claim the same subject matter as that of the present disclosure, including two stages of electron beam deflectors 14 & 17 and a casing 22 having an aperture 15, shown in Fig.1 and recited in Col.6/ll.24-46. However, only one deflector 14 is enclosed inside the casing 22, while the other deflector 17 remains outside. Furthermore, the separation between deflector 14 and deflector 17 is obviously larger than the distance between the second deflector 17 to the sample 18.

► USPAT # 6,576,908, issued on 06/10/2003 to Winkler et al., is found to claim the same subject matter as that of the present disclosure, including two stages of electron beam deflectors 11 and 12 that are enclosed in a casing (labeled UHV) having an aperture 8 that may further serve as a barrier for gases, as shown in Fig.2 and Fig.6, recited in Col.4/ll.36-65 and Col.5/ll.11-15. However, as can be seen in all figure drawings, Winkler's apparatus is not designed for high-energy electron diffraction as recited in claim 1. Furthermore, the separation between Winkler's deflector 11 and deflector 12 is obviously larger than the distance between the second deflector 12 to the (unlabeled) sample at the bottom of the figure drawings.

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Communications

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard E Souw whose telephone number is 571 272 2482. The examiner can normally be reached on Monday thru Friday, 9:00 am to 5:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R Lee can be reached on 571 272 2477. The central fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communications as well as for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

bes
September 24, 2004



JOHN R. LEE
SUPERVISORY PATENT EXAMINER
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